

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

**SHAWN DOUGLAS MOFFETT,
395956**

PLAINTIFF

v.

CAUSE NO. 1:16CV402-LG-RHW

**HARRISON COUNTY SHERIFF
DEPARTMENT, DEPUTY HAILEY,
and HARRISON COUNTY**

DEFENDANTS

ORDER DISMISSING HARRISON COUNTY SHERIFF DEPARTMENT

This case is before the Court *sua sponte*. The Court has considered and liberally construed the pleadings, and is of the opinion that Defendant Harrison County Sheriff Department should be dismissed.

Pro se Plaintiff Shawn Douglas Moffett is a pretrial detainee at the Harrison County Adult Detention Center. Moffett was classified as “bottom t[ie]r, bottom bunk restricted” and had a neck brace. (See Resp. 1, ECF No. 7). He alleges that on July 4, 2016, he was not wearing his neck brace and was in a unit to which he was not assigned when Defendant Deputy Hailey ordered him to return to his own housing unit and get out of the doorway. Moffett did not move but claims that he tried to explain to Hailey why he was not in his unit. He alleges that Hailey “forcefully shoved” him so hard that, had it not been for two other inmates, Moffett “would have fallen backwards and hit the ground.” (Compl. 4, ECF No. 1). He further contends that his “head violently snapped forward into [his] chest making a loud popping sound. Then . . . Hailey . . . used excessive force to restrain [Moffett]

after being told by [another officer] to retreat. . . . [Moffett] suffered from severe spinal and neck [i]njuries, causing many unstable moments throughout the following weeks.” (*Id.*)

Moffett initiated this action under 42 U.S.C. § 1983 against Hailey, claiming excessive force. He has also sued Harrison County and the Harrison County Sheriff’s Department, citing the Mississippi Tort Claim Act.

The Sheriff Department’s capacity to be sued is determined by Mississippi law. *See* Fed. R. Civ. P. 17(b)(3). In Mississippi, a sheriff’s department is not a separate legal entity which may be sued, rather it is an extension of the county. *See, e.g., Brown v. Thompson*, 927 So. 2d 733, 737 (¶12) (Miss. 2006). Therefore, the Court finds that the Sheriff Department should be dismissed from this action, and will construe the allegations against the Sheriff Department as allegations against the County.

IT IS THEREFORE ORDERED AND ADJUDGED that Harrison County Sheriff Department is **DISMISSED** from this action. The remainder of the case will proceed at this juncture.

SO ORDERED AND ADJUDGED this the 8th day of March, 2017.

s/ Louis Guirola, Jr.
LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE